



## DEPARTMENT OF JUSTICE

### Notice of Proposed Settlement Agreement under the Comprehensive Environmental Response, Compensation and Liability Act and the Pennsylvania Hazardous Sites Cleanup Act

Notice is hereby given that the United States of America, on behalf of the National Oceanic and Atmospheric Administration (“NOAA”), and the Department of the Interior (“DOI”), acting through the Fish and Wildlife Service, and the Commonwealth of Pennsylvania, acting through the Department of Environmental Protection, the Department of Conservation and Natural Resources, and the Fish and Boat Commission (collectively “Trustees”), are providing an opportunity for public comment on a proposed Settlement Agreement (“Settlement Agreement”) between the Trustees and a dozen public utility companies: Consolidated Edison Company of New York, Inc., Public Service Electric and Gas Company, Baltimore Gas and Electric Company, Jersey Central Power and Light Company, Long Island Lighting Company d/b/a LIPA, Metropolitan Edison Company, Orange and Rockland Utilities, Inc., PECO Energy Company, Potomac Electric Power Company, PPL Electric Utilities Corporation, Virginia Electric and Power Company, and Delmarva Power & Light Company (collectively, “Settling Defendants”).

The settlement resolves the civil claims of the Trustees against the Settling Defendants arising under their natural resource trustee authority set forth at Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. 9607, and at section 507 of the Pennsylvania Hazardous Sites Cleanup Act, Act of October 18, 1988, Pub. L. 756, No. 108, as amended (“HSCA”), 35 P.S. 6020.507. The claims are for injury to, impairment of, destruction of, loss of, diminution of value of, and/or loss of use of natural resources, including the reasonable costs of assessing the injuries, resulting from the Settling Defendants’ alleged contribution to the release of hazardous substances at the Metal Bank Superfund Site in Philadelphia, Pennsylvania (the “Site”).

Under the proposed Settlement Agreement, the Settling Defendants agree to pay \$950,000 to resolve their liability at the Site. Of this amount, \$414,807 will compensate NOAA and DOI for their costs of assessing natural resource damages at the Site. The remaining \$535,193 will be paid into the DOI Natural Resource Damage Assessment and Restoration Fund and earmarked for future natural resource restoration projects selected by the Trustees and implemented in the vicinity of the Site to compensate the public for the injury to natural resources. A restoration plan will be developed for public comment by the Trustees.

Notice of the Settlement Agreement was previously published in the *Federal Register* on March 17, 2021 (86 FR 14646). Due to an administrative oversight, that notice provided a link to an incorrect version of the Settlement Agreement. The correct version of the Settlement Agreement contains slightly different language in Paragraphs 2 (in the definition of “Natural Resource Restoration Projects”), 3.b, and 4 clarifying that funds paid under the Settlement Agreement may be spent on any Natural Resource Restoration Projects to restore, replace, or acquire the equivalent of the Natural Resources that have been injured as a result of releases of hazardous substances at the site.

The publication of this notice opens a period for public comment limited to addressing the different language of Paragraphs 2, 3.b, and 4 of the proposed Settlement Agreement. Comments on the proposed Settlement Agreement should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to the Metal Bank Natural Resource Damages Settlement Agreement, D.J. Ref. No. 90-11-2-1183/2. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov

By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611
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During the public comment period, the Settlement Agreement may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. The Department of Justice will provide a paper copy of the Settlement Agreement upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library  
U.S. DOJ – ENRD  
P.O. Box 7611  
Washington, D.C. 20044-7611

Please enclose a check or money order for \$4.00 (25 cents per page reproduction cost) payable to the United States Treasury.

All public comments must be submitted no later than thirty (30) days after the publication date of this notice.

**Jeffrey Sands,**

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Environmental Enforcement Section,  
Environment and Natural Resources Division.*

[FR Doc. 2021-19451 Filed: 9/7/2021 8:45 am; Publication Date: 9/8/2021]